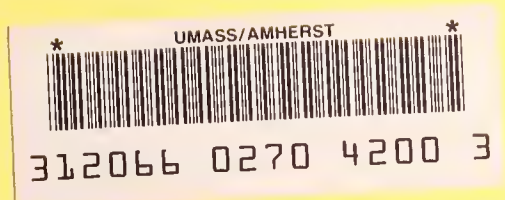


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A Smoldering Issue

Creating Fire Safety Standards for Cigarettes

**A Report of the
Senate Committee on Post Audit and Oversight
November 2000**

Massachusetts Senate

**The Honorable Thomas F. Birmingham
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The Senate Committee on Post Audit and Oversight works to ensure that state government is accountable to the citizens of the Commonwealth. The Committee's charge is to monitor compliance with state laws, to act as a watchdog to protect taxpayers from waste and fraud, to evaluate the efficiency and effectiveness of state agencies and programs, and to recommend corrective actions through legislation, regulation, and administrative initiatives.

Senate Post Audit and Oversight Bureau

Joel Andrés Barrera
Director

Victoria Grafflin
Deputy Director

Tobi Quinto
Senior Analyst and Principal Writer and Researcher

Angus G. McQuilken
Chief of Staff, Senator Cheryl A. Jacques

The Bureau gratefully acknowledges the work of Carolyn Ringel, Amy Panek, Rita Noonan, Leslie St. Lawrence, Beth Pronovost, Jennifer Ray, and Cecilia Chu.

The Bureau would also like to acknowledge the following individuals: Congressman Joseph Moakley, New York Assemblyman Peter Grannis, Massachusetts State Fire Marshal Stephen Coan, Dr. Jeffrey Wigand, Andrew McGuire, and Dr. Greg Connolly, Director, Massachusetts Tobacco Control Program.

In addition, the Bureau would like to recognize the assistance of the Tobacco Control Resource Center at Northeastern University Law School, staff at the Office of Congressman Joseph Moakley, the Massachusetts Tobacco Control Program, the *Attleboro Sun Chronicle*, local fire departments, and the many firefighters and public health officials, academic researchers, and tobacco industry officials who offered their expertise on smoking-related fires and fire safety standards for cigarettes.

The Bureau would especially like to acknowledge those individuals whose lives have been affected by cigarette-started fires for sharing their stories.

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EXECUTIVE SUMMARY

In Massachusetts, the careless use and disposal of smoking materials is the leading cause of fire deaths.

Each year an average of 1,370 fires across the Commonwealth are smoking related. In the 1990s, these fires caused 178 deaths, 763 civilian injuries, 677 firefighter injuries, and more than \$75 million in property loss in Massachusetts alone.

Nationally, more than 1,000 people die and 3,000 are injured in cigarette-started fires each year. These fires cause more than \$400 million in direct property damage annually.

Many of these tragedies have made headlines in Massachusetts:

In November 1999, a fire claimed the life of a visiting priest and destroyed a historic stone castle at the LaSalette Shrine in Attleboro, MA. The fire was started when the priest fell asleep while smoking in bed.

In June 1999, a fire in Hull left an off-duty firefighter paralyzed from the waist down. The fire was started when a burning cigarette was tossed over a porch railing into a backyard. Shrapnel from a propane tank that exploded during the fire severed the firefighter's spine while he battled the blaze.

Cigarette-started fires not only pose a risk to smokers, but also pose a risk to innocent bystanders, such as children and residents of neighboring houses and apartments.

During the last weekend of October 2000, two fires in South Boston erupted within hours of each other, leaving 60 people homeless and causing more than \$4 million in property damage. Cigarettes caused both of these fires, the second of which destroyed eight buildings and required more than 160 firefighters to extinguish.

In 1990, a fire in Roslindale killed a family of five, including three young children all under the age of four, and a family friend. The fire started when a lit cigarette was dropped on to a chair and left to burn, igniting the deadliest fire in Boston in more than a decade.



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An astonishing 82% of smoking-related structure fires are caused by smoking materials that were abandoned or not safely discarded. Many of these potentially fatal fires could be prevented if cigarettes were designed to extinguish on their own when left burning unattended. At a September 2000 Senate Post Audit and Oversight Committee hearing, testimony from a wide array of fire safety and public health officials clearly established the need for and feasibility of establishing fire safety standards for cigarettes.

The federal government has extensively studied the issue of cigarette fire safety standards for 15 years. Based on a three-year study led by the National Institute of Standards and Technology (NIST), a 1987 federal report concluded that the manufacturing of cigarettes that are less likely to start fires is technically and economically feasible. The making of less incendiary cigarettes entails employing design modifications such as packing tobacco more loosely, reducing the diameter of the cigarette, or removing chemicals that make the cigarette paper burn faster. A second federal study released in 1993 produced widely accepted standards for testing the fire safety of cigarettes.

At the Committee hearing, Dr. Jeffrey Wigand, former Vice President of Research and Development at Brown & Williamson Tobacco Company, testified that tobacco companies have known how to make a less incendiary cigarette since 1986.

At the federal level, Congressman Joseph Moakley of Boston has been a champion for cigarette fire safety standards for more than two decades. However, lobbying by tobacco companies has thwarted the creation of a federal standard, and states are now beginning to step forward in this area. New York recently became the first state in the nation to enact state-level cigarette fire safety standards.

Cigarettes that are considered less incendiary are already being sold in the United States. According to NIST, five brands of cigarettes on the U.S. market already meet proposed national standards for fire safety in cigarettes. These brands include: Capri Lights 100s, Eve Lights 120s, Virginia Slims Superslims 100s, More 120s and More White Lights 120s. In July 2000, a newer version of Merit cigarettes was brought to market utilizing breakthrough technology in the cigarette paper that makes them less prone to start fires.

After a six-month review, the Senate Post Audit and Oversight Committee has concluded that public safety would be served by establishing fire safety standards for cigarettes that are sold in the Commonwealth.

FINDINGS: A CRITICAL PUBLIC SAFETY PROBLEM

1. Cigarettes are the leading cause of fatal fires in Massachusetts, and during the 1990s accounted for 178 deaths, 763 civilian injuries, 677 firefighter injuries, and more than \$75 million in property damage. Many of these smoking-related fires could be prevented through the introduction of fire safety standards for cigarettes.
2. The federal government has clearly demonstrated that it is technically and economically feasible for cigarettes to meet fire safety standards. In addition, NIST and the Consumer Product Safety Commission have developed testing methodologies for cigarette fire safety and smoke toxicity that can be adopted by states.
3. While requiring that cigarettes meet fire safety standards is clearly a necessary step in reducing smoking-related fires, a continued focus on education and prevention is also needed.

RECOMMENDATIONS: CREATING FIRE SAFETY STANDARDS

1. Following the lead of New York State, Massachusetts should establish fire safety standards for cigarettes that can help prevent needless loss of life and property.
 - The Department of Public Health, in cooperation with the Office of the State Fire Marshal, should be statutorily required to develop fire safety standards for cigarettes sold in Massachusetts.
 - All cigarettes sold in MA should meet fire safety standards no later than 2003.
 - The law should include stiff penalties for violation of the standards.
2. Massachusetts standards should include adoption of national testing methodologies for fire safety and smoke toxicity. Tobacco manufacturers should be required to provide certification that cigarettes designated for sale in Massachusetts have passed national tests for fire safety, and that these cigarettes are no more toxic than current brands.
3. To enhance public education about fire safety, Massachusetts should allocate a portion of the funds generated from violations of fire safety standards towards on-going prevention and educational efforts such as the Student Awareness of Fire Education (S.A.F.E.) program, which sends firefighters into schools to educate children about fire prevention and safety.

THE NEED FOR CIGARETTE FIRE SAFETY STANDARDS

Deadly Retreat

On November 5, 1999 a visiting priest from England, Reverend Paul O' Brien, fell asleep in bed while smoking a cigarette at the LaSalette Shrine in Attleboro.¹ Reverend O'Brien died in a fire that was started by a smoldering cigarette. The fire also destroyed the historic stone castle, causing more than \$10 million in damage.² At the time of the fire, Reverend O'Brien was on a religious retreat with 23 other priests, who were all staying at LaSalette but who escaped unharmed. It took the combined forces of nearly 250 firefighters from 12 communities more than five hours to subdue this fatal cigarette-started fire.³

The LaSalette Shrine fire in Attleboro was one of the most expensive structural fires in 1999.⁴

The tragedy at the LaSalette Shrine was not an isolated incident. Each year, across the country, more than 1,000 people die and more than 3,000 injuries occur as a result of fires started by cigarettes.⁵ According to the National Fire Protection Association (NFPA), cigarette ignited fires in the United States result in more than \$400 million in direct property damage annually.

In Massachusetts, the careless use and disposal of smoking materials is the leading cause of fire deaths.⁶ Each year an average of 1,370 fires across the Commonwealth are smoking related.⁷ In the 1990s, these fires caused 178 civilian fire deaths, 763 civilian injuries, 677 firefighter injuries, and more than \$75 million in property loss in Massachusetts alone.⁸

¹ "Cigarette Started Fire at LaSalette." Patriot Ledger 9 Nov. 1999.

² City of Attleboro. Fire and Police Departments. Incident Report. 9 Nov. 1999.

³ City of Attleboro. Fire and Police Departments. Incident Report. 9 Nov. 1999; Churchill, Ronald. Chief, Attleboro Fire Department. Testimony. Public Hearing. Massachusetts Senate Post Audit and Oversight Committee. Boston, 6 Sept. 2000.

⁴ Churchill, Ronald. Chief, Attleboro Fire Department. Telephone conversation. 11 Aug. 2000. Fire incident reports indicate that the LaSalette fire resulted in \$10 million in damages.

⁵ Hall, John, Jr. National Fire Protection Association. The U.S. Smoking Material Fire Problem Through 1997. December 1999.

⁶ Office of the State Fire Marshal. "Smoking Related Fires 1990-1999." Massachusetts Fire Incident Reporting System Annual Report. 1999. This report defines smoking materials in accordance with studies by the National Fire Protection Association (NFPA), in which "smoking materials refer only to lighted tobacco products, not matches or lighters. Nearly all smoking-material fires involve cigarettes; cigars and pipes collectively are specifically cited in only two percent of these fires. "

⁷ Ibid.

⁸ Ibid.

Table 1. Massachusetts Fires Caused by Smoking 1990-1999⁹

Year	# of Fires	FF Injuries	Civ Injuries	Deaths	Dollar Loss
1990	1,338	67	96	24	\$6,758,211
1991	1,465	83	94	19	\$6,096,550
1992	1,293	64	84	14	\$6,869,492
1993	1,335	109	86	21	\$7,339,540
1994	1,377	87	83	27	\$7,046,702
1995	1,499	67	73	16	\$7,342,088
1996	1,175	59	73	25	\$5,419,172
1997	1,349	39	51	9	\$4,596,420
1998	1,261	41	74	13	\$7,202,120
1999	1,607	61	49	10	\$16,918,733
Total	13,699	677	763	178	\$75,589,028
Annual Average	1,370	68	76	18	\$7,558,903

Key: "FF": firefighters; "Civ": civilians

An astonishing 82% of smoking-related structure fires are caused by smoking materials that were abandoned or not safely discarded.¹⁰ Many of these potentially fatal fires could be prevented if cigarettes were required to extinguish on their own when left burning unattended. At a September 2000 Senate Post Audit and Oversight Committee hearing, testimony from a wide array of fire safety and public health officials clearly established the need for and feasibility of establishing fire safety standards for cigarettes.¹¹

⁹ Office of the State Fire Marshal. "Smoking Related Fires 1990-1999." Massachusetts Fire Incident Reporting System Annual Report . 1999.

¹⁰ Ibid. 7% of smoking related fires start when the smoker fell asleep; 4% of structure fires caused by smoking were arson.

¹¹ Public Hearing. Massachusetts Senate Post Audit and Oversight Committee (PAO Committee). Boston, 6 Sept. 2000.

Many fire officials testified that creating fire safety standards for cigarettes was an effective way to reduce the number of smoking-related fires at which firefighters risk their lives.¹²

Three Firefighters Die in New York Cigarette Ignited Blaze

On December 18, 1998, a fire erupted in a 10th floor apartment of the Vandalia House, a city project for the elderly in Brooklyn.¹³ The cause of the fire was a cigarette that was dropped accidentally while an elderly woman smoked in bed. As the fire spread, the woman "fled the apartment and left her front door open, which allowed the fire to spread into a long hallway, turning it into an inferno."¹⁴ The fire tragically claimed the lives of three firefighters who were trying to rescue the woman.

The firefighters were 15-year veteran Lt. Joseph Cavalieri, 42, and three-year veterans Christopher Bopp, 27, and James Bohan, 25, all members of Ladder Co. 170 in Canarsie.

The firefighters entered the building and raced ten flights to the apartment where they believed the woman was trapped. As the firefighters approached the doorway of the apartment, a change in wind caused the flames to blow towards them, instantly engulfing them. Fire officials said the backdraft asphyxiated the firefighters almost instantly and burned the oxygen masks off their faces.¹⁵ Another team of rescuers brought the fallen three to the ninth floor and tried, unsuccessfully, to revive them.¹⁶

Three other tenants, six additional firefighters, and two medical workers were also injured in the blaze.¹⁷ The Vandalia House fire was the New York City Fire Department's worst since 1978, when six firefighters were killed in a fire at a Brooklyn supermarket.¹⁸

¹² DiPoli, Robert. Chief, Needham Fire Department. Director of Governmental Relations, Fire Chiefs Association of Massachusetts. Testimony. Public Hearing. PAO Committee. Boston, 6 Sept. 2000; Panel of Massachusetts fire officials. Testimony. Public Hearing. PAO Committee. Boston, 6 Sept. 2000.

¹³ Rein, Lisa, Mike Claffey and Patrice O'Shaughnessy. "FDNY Grieves for Brothers." New York Daily News 20 Dec. 1998.

¹⁴ Goldiner, Dave. "Three Bravest Die in Brooklyn Fire." New York Daily News 19 Dec. 1998.

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Ibid.

Cigarette-related fires occur under a variety of circumstances, such as:

- house fires started by a burning cigarette butt, carried into rooftop gutters by a bird;¹⁹
- a "flaming haul of garbage," started when a lit cigarette ignited trash in a garbage truck; the trash fire had to be deposited in the middle of the street in order to be extinguished;²⁰
- a fire that engulfed a popular wharf on Boston Harbor when a dropped, lit cigarette became wedged between wooden planks of the wharf, causing more than \$1 million in damage;²¹
- a fire in the bed of a pick-up truck that started when the driver flicked a burning cigarette out the window, which landed in a pile of leaves in the bed of the truck;²²
- brush fires started by drivers who toss burning cigarettes out of moving vehicles along a highway; and
- numerous "nuisance" fires started by burning cigarettes discarded in landscaped entryways to businesses or on islands at traffic intersections.²³

Because of fires like these, it is necessary to look beyond stereotypes of the careless smoker in bed or on the sofa, recognize that non-smokers are put at risk by cigarette-started fires, and acknowledge the benefit of marketing less incendiary cigarettes.

¹⁹ Murphy, Edward. Chief, Newton Fire Department. Personal interview. 20 Jun. 2000; Fleming, Joseph. Deputy Chief, Boston Fire Department. Testimony. Public Hearing. PAO Committee. Boston, 6 Sept. 2000.

²⁰ Brudereck, Jason. "Cigarette Ignites Load in Trash Truck." Patriot Ledger 7 Nov. 1998:14.

²¹ Martinez, Jose. "Cigarette Likely Cause of Hub Wharf Fire." Boston Herald 19 Jun. 1999.

²² Maruca, Joseph. Legislative Liaison, MA Call/Volunteer Firefighter Association. Testimony. Public Hearing. PAO Committee. Boston, 6 Sept. 2000.

²³ Melanson, Dean. Deputy Chief, Hyannis Fire Department. Telephone conversation. 2 Nov. 2000.

Table 2. Smoking Related Fires by Type of Situation²⁴

Year	Structure	Brush	Trash	Vehicle	Outside	Other/ Unclassified
1990	792	213	169	122	32	10
1991	797	338	185	105	30	10
1992	744	252	162	93	32	10
1993	730	337	146	81	33	8
1994	731	367	149	81	3	10
1995	693	486	167	78	58	17
1996	689	230	117	73	47	19
1997	672	366	166	70	55	20
1998	598	354	182	65	46	16
1999	580	664	178	62	97	26
Total	7026	3607	1621	830	469	146
Annual Average	703	361	162	83	47	15

The above table illustrates the extent to which cigarettes start fires in a variety of circumstances.

²⁴ Office of the State Fire Marshal. "Smoking Related Fires 1990-1999." Massachusetts Fire Incident Reporting System Annual Report. 1999.

Cigarette-started fires not only pose a risk to smokers, but also pose a risk to innocent bystanders, such as children and residents of neighboring houses and apartments.

Halloween Horror

On the Saturday evening before Halloween night in October 2000, two devastating smoking-related fires broke out within hours of one another in South Boston.²⁵ The two fires destroyed a total of 11 homes and two businesses, left at least 60 people homeless, and caused \$4.6 million in damage.²⁶

The first blaze, a five-alarm fire, erupted at 11:30 p.m. in the cupola of an apartment above the Spencer Funeral Home on East Broadway.²⁷ Fire officials blame a cigarette for the fire that started during a Halloween party at the home. It is believed that one or more cigarettes left on a windowsill were the source of the fire.²⁸ The fire destroyed three adjacent apartment buildings, and forced 15 people from their homes.²⁹

Just two hours later, as Boston firefighters were recuperating from battling the East Broadway fire, they were called to battle what would become a nine-alarm inferno that engulfed eight triple-decker homes and left more than 60 people homeless.³⁰ It took more than 160 Boston firefighters, 27 engine companies, and eight ladder companies to extinguish the blaze.³¹ This fire started on the back porch of a first floor apartment on East Sixth and Swallow Streets.³² An ember from a lit cigarette or a carelessly disposed cigarette ignited a sofa on the porch.³³

"It looked like a 747 had gone down there," said Fire Chief Paul Christian about the second fire. "There were heavy balls of smoke roiling above the buildings with flames jutting 40 feet above the rooftops."³⁴ Speaking about the fire that engulfed his home on East Sixth Street, one resident said, "You always see the people on the news who have lost their home, but you never think it will happen to you."³⁵

A week later on Saturday, November 4, another South Boston fire was started by a cigarette. Chief Christian stated that as it is becoming more common for people to smoke outside, cigarette-started fires such as the recent ones in South Boston may also become a trend because people are less careful about dropping cigarette ashes and properly disposing of cigarettes while outdoors.³⁶

²⁵ Associated Press. "Investigators Say Two of Three Southie Fires Result of Careless Smoking." 1 Nov. 2000. See <www.boston.com/news/daily/01/southie_fires_110100.htm> (visited 1 Nov. 2000).

²⁶ Ibid.

²⁷ Ibid. City of Boston. Fire Department. Incident report. 5 Nov. 2000.

²⁸ Heslam, Jessica. "Cigarettes Cited as Cause in 2 of 3 South Boston Fires." Boston Herald 2 Nov. 2000.

²⁹ Higgins, Richard. "In Disaster's Wake, S. Boston Pitches In." Boston Globe 31 Oct. 2000; MacQuarrie, Brian and Mac Daniel. "South Boston's Night of Flames." Boston Globe 30 Oct. 2000.

³⁰ Ibid.

³¹ Christian, Paul. Chief, Boston Fire Department. Telephone conversation. 9 Nov. 2000.

³² MacQuarrie, Brian and Mac Daniel. "South Boston's Night of Flames." Boston Globe 30 Oct. 2000.

³³ Christian, Paul. Chief, Boston Fire Department. Telephone conversation. 9 Nov. 2000.

³⁴ MacQuarrie, Brian and Mac Daniel. "South Boston's Night of Flames." Boston Globe 30 Oct. 2000.

³⁵ Heslam, Jessica and Paul Sullivan. "Officials ID Causes of Blazes: Clothes Dryer, Candle, Smoking Cited." Boston Herald 31 Oct. 2000. See <www.bostonherald.com/news/local_regional/fire1031200.htm> (visited 31 Oct. 2000).

³⁶ Christian, Paul. Chief, Boston Fire Department. Telephone conversation. 9 Nov. 2000.

Firefighter Left Paralyzed in Smoking-Related Fire

In June 1999, off-duty Hull firefighter John Clasby responded to a house fire on Clifton Avenue in Hull.³⁷ The fire, started by a cigarette carelessly tossed over a porch railing, tragically injured the veteran firefighter, leaving him paralyzed from the waist down.³⁸ Shrapnel from a propane tank that exploded from the heat of the fire severed Clasby's spine as he battled the blaze.³⁹

Clasby was in intensive care for a week after the accident and his total hospitalization lasted more than three weeks.⁴⁰ An athlete all his life, he no longer has use of his legs and has a challenging recuperation ahead.⁴¹ According to Clasby, he feels pain "24 hours a day, seven days a week."⁴²

The fire also sent four fellow firefighters to the hospital, including firefighter Robert Neal, who received an electrical shock while helping Clasby, then went into cardiac arrest as he was flown to the hospital.⁴³

VULNERABLE POPULATIONS

Various experts at the public hearing testified that the availability of a less incendiary cigarette would not only diminish the overall risks of smoking-related fires, but also diminish the risks to certain vulnerable groups, including children, the elderly, and the disabled.⁴⁴

³⁷ Walsh, Tom and Andrew Nelson. "Carelessly Tossed Cigarette Blamed in Fire/ 2 Injured Firefighters Remain Hospitalized." Patriot Ledger 1 Jul. 2000.

³⁸ Conkey, Don. "Paralyzed Firefighter Hangs Tough Through First Year." Patriot Ledger 30 Jun. 2000.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Ibid.

⁴³ Ibid. Neal was later released from the hospital.

⁴⁴ Experts included Robert Sheridan, M.D., Assistant Chief of Surgery at Shriners' Hospital in Boston; Joseph Maruca, Legislative Liaison, MA Call/Volunteer Firefighter Association; Greg Dibrindisi, Trustee, MA Call/ Volunteer Fire Association; Carole Allen, M.D., Treasurer of the MA Chapter of the American Academy of Pediatrics; and Jim Giebfried, Director of Smoking Cessation at the American Cancer Society, New England Chapter of the American Cancer Society. Public Hearing. PAO Committee. Boston, 6 Sept. 2000.

Children, the elderly, and the disabled are among those less likely to be able to save themselves from an indoor fire. According to the Center for Social Gerontology, in one year alone, 50% of fatal smoking-related fires claimed the lives of persons 50 years old and over.⁴⁵ Reports of smoking-related fires in nursing homes are "particularly frightening to older Americans because so many residents are bedridden or have serious mobility problems."⁴⁶

Repeated Tragedy in Marlborough

In March 1999, a cigarette-started fire in Marlborough claimed the life of 82-year-old Donald O'Leary, Sr.⁴⁷ The fire also injured four firefighters.⁴⁸ As firefighters crawled into the house to search for survivors, the floor collapsed and the firefighters tumbled into the cellar.⁴⁹

Fourteen years earlier, two of Mr. O'Leary's grandchildren, ages 5 and 6, perished in a fire that was also started by a cigarette.⁵⁰ A burning cigarette was dropped in the cushions of a couch.

Seniors Caught in a Blaze

On Friday, October 13, 2000 a cigarette-started fire broke out in an apartment complex that housed several hundred senior citizens in Winthrop. The fire injured two residents and one of the Winthrop police officers at the scene.⁵¹ The blaze started on the first floor of the complex allegedly as the result of a dropped cigarette that may have been fueled by an oxygen tank.⁵² The fire quickly spread to the second floor, surprising residents.⁵³

The quick work of firefighters and police officers saved several residents from the fast moving inferno.⁵⁴

⁴⁵ Giebfried, James. Director, MA Cessation Programs, American Cancer Society, New England Division. Testimony. Public Hearing. PAO Committee. Boston, 6 Sept. 2000; <www.tcsg.org/tobacco/facts.htm. > Statistics drawn from 1995. (visited 15 Nov. 2000)

⁴⁶ Giebfried, James. Director, MA Cessation Programs, American Cancer Society, New England Division. Testimony. Public Hearing. PAO Committee. Boston, 6 Sept. 2000.

⁴⁷ Thompson, Elaine. "Marlboro Fire Brings Family 2nd Tragedy." Worcester Telegram & Gazette 19 Mar. 1999.

⁴⁸ Ibid.

⁴⁹ Ibid.

⁵⁰ Ibid.

⁵¹ "Winthrop Fire Sends Three to Hospital." WCVB 13 Oct. 2000.

⁵² Martinez, Jose and Dave Wedge. "Quick Work Saves Elders from Blaze in Winthrop." Boston Herald 13 Oct. 2000.

⁵³ "Winthrop Fire Sends Three to Hospital." WCVB 13 Oct. 2000.

⁵⁴ Martinez, Jose and Dave Wedge. "Quick Work Saves Elders from Blaze in Winthrop." Boston Herald 13 Oct. 2000.

Family Perishes in Roslindale Fire⁵⁵

In the U.S., more than 80 children die each year in cigarette-related fires.⁵⁶

Among the children who have perished in cigarette-started fires were the three grandchildren of Mary Kearney. In 1990 a blaze started after the children's father dropped a lit Marlboro Light Cigarette on to an easy chair and headed for bed.⁵⁷ The fire took the lives of the O'Neill family -- parents Myles and Maureen, and three girls, 3-year old Charlene, 2-year old Stacy, and 10-month old Leanne -- and Patrick McGovern, a family friend.⁵⁸ This fire was Boston's deadliest in more than a decade.⁵⁹

The children's aunt and only survivor of the fire, Deirdre Kearney, summarized the tragedy, "I found out that it was a cigarette (that started the fire) and that my sister never smoked. Those kids had no choice and such a small thing like a cigarette could take away so much so fast."⁶⁰

The societal costs of cigarette-induced fires are clearly demonstrated by the trail of fire deaths, injuries, and economic losses.

⁵⁵ Matza, Michael. "Tobacco Company Sued Over Failure to Produce Fire-Safe Cigarettes." Knight-Ridder 14 Feb. 1995.

⁵⁶ "Fire-safe Cigarettes Bill Gets Support." Patriot Ledger 17 Mar. 1999.

⁵⁷ Matza, Michael. "Tobacco Company Sued Over Failure to Produce Fire-Safe Cigarettes." Knight-Ridder 14 Feb. 1995.

⁵⁸ Gaines, Judith. "Fatal Fire Behind Epic Tragedy Spurred Tobacco Whistleblower." Boston Globe 11 Nov. 1999.

⁵⁹ Christian, Paul. Chief, Boston Fire Department. Telephone conversation. 9 Nov. 2000.

⁶⁰ Kearney, Deirdre. Testimony. Public Hearing. PAO Committee. Boston, 6 Sept. 2000.

PREVENTION AND EDUCATION

Education and other fire prevention methods must also be part of any comprehensive plan to reduce the number of cigarette-started fires. For example, the Office of the State Fire Marshal carries out fire prevention efforts that include education, engineering, and enforcement.⁶¹

The review by the Post Audit and Oversight Committee acknowledges the following as important components of a comprehensive approach to preventing fires throughout the Commonwealth; these include, but are not limited to:

- Use of smoke detectors
- Use of sprinkler systems
- Use of fabrics that are treated with flame-retardants
- The Student Awareness of Fire Education (S.A.F.E) program conducted by local fire departments

The S.A.F.E. program is a state initiative to provide resources to local fire departments to conduct fire and life safety education programs in grades K-12.⁶² The mission is to "enable students to recognize the dangers of fire and more specifically the fire hazards tobacco products pose."⁶³ S.A.F.E. promotes safety behaviors such as making and practicing home escape plans, reporting fires and emergencies, and smoke detector maintenance.⁶⁴

Documented accounts demonstrate that fire education and prevention work. According to the S.A.F.E. program, more than 70 children who participated in it have saved themselves or a loved one over the past four years.⁶⁵

⁶¹ Coan, Stephen. Massachusetts State Fire Marshal. Personal interview. 27 June 2000.

⁶² Massachusetts Office of the State Fire Marshal. "An Explanation of the SAFE Program for Parents and Care Providers." June 2000.

⁶³ Ibid.

⁶⁴ Ibid.

⁶⁵ Ibid.

THE HISTORY BEHIND THE DEBATE

Legislative efforts to mandate safety standards for cigarettes started in Massachusetts almost 70 years ago. According to an Associated Press story in the March 1932 edition of the *Boston Herald American*, Massachusetts Congresswoman Edith Nourse Rogers of Lowell urged the National Bureau of Standards (today's National Institute of Standards and Technology, or NIST) to develop a treatment for cigarettes that would cause them to go out as soon as they were discarded.⁶⁶ Congresswoman Rogers' efforts to create fire safety standards for cigarettes were unsuccessful but the issue smoldered in state legislatures and Congress throughout the 20th century.

Over the past 25 years a dozen states, including Massachusetts, California, and New York, have considered legislation to develop fire safety standards for cigarettes.⁶⁷ In August of 2000, New York became the first state to enact a law establishing cigarette fire safety standards.⁶⁸

In Massachusetts during the 1980s and early 1990s, several bills were proposed to establish fire safety standards for cigarettes. Sponsors of legislation to create fire safety standards for cigarettes have included former Senators John Brennan (D-Malden) and Lucile Hicks (R-Wayland), former Representatives Lawrence Alexander (D-Marblehead) and Kevin Blanchette (D-Lawrence), and Representative Bryon Rushing (D-Boston). None of these bills became law.

In California, a bill to establish cigarette safety standards passed in the Senate, but was defeated in the Assembly Committee on Governmental Organizations in August 2000.⁶⁹ Members of the Assembly Committee reportedly have been among the top recipients of tobacco industry campaign contributions in the California legislature.⁷⁰

⁶⁶ McGuire, Andrew. "How the Tobacco Industry Continues to Keep the Home Fires Burning." Tobacco Control 8 (1999):67-69.

⁶⁷ See <www.burnfoundation.org/firesafecig.html> (visited 24 May 2000).

⁶⁸ On August 16, 2000, Governor George Pataki of New York signed the Cigarette Fire Safety Act, which made New York the first state in the nation to require the establishment of fire safety standards for cigarettes.

⁶⁹ Bustillo, Miguel. "Bill to Boost Fire Safety in Cigarettes Dies." Los Angeles Times 22 Aug. 2000.

⁷⁰ Bustillo, Miguel. "Tobacco Companies Attack Fire Safety Bill." Los Angeles Times 21 Aug. 2000 A3, A13.

Moakley Champions Fire Safety Standards

For more than two decades, Congressman Joseph Moakley (D-Boston, 9th District) has championed the establishment of fire safety standards for cigarettes at the federal level, only to be opposed by the tobacco industry.⁷¹ Moakley's interest was sparked by the grim aftermath of a cigarette-started fire in his district, which took the lives of 5 young children and their parents in Westwood in 1979.⁷² As a result of this tragedy, Congressman Moakley introduced a bill to require that tobacco companies make self-extinguishing cigarettes.⁷³ The bill passed in the Senate, but did not pass in the House of Representatives. Since then, Congressman Moakley has passed two laws -- the Fire Safe Cigarette Act of 1984 and the Fire Safe Cigarette Act of 1990 -- that laid the groundwork for creating fire safety standards for cigarettes.

These laws have resulted in the formation of a national comprehensive technical study and advisory group on the issue of cigarette fire safety standards. The group, comprised of 15 representatives of government agencies, the cigarette industry, the furniture industry, public health organizations and fire safety organizations, accomplished the following:⁷⁴

- found that it is technically, economically, and commercially feasible to develop a cigarette that is less likely to cause fires;⁷⁵ and
- developed methods for testing the fire safety of cigarettes, which is necessary in order to be able to promulgate a fire safety standard for cigarettes.⁷⁶

During the 106th Congress, Congressman Moakley introduced a bill (H.R. 1130), the Fire Safe Cigarette Act of 1999, that would authorize the Consumer Product Safety Commission to issue a fire safety standard for cigarettes and give cigarette manufacturers one year to comply with the new standard.⁷⁷ The bill is still pending.

⁷¹ Moakley, John Joseph. US Congressman, Boston 9th District. Written testimony. Public hearing. PAO Committee. Boston, 6 Sept. 2000.

⁷² The fire in Westwood, MA, then part of Congressman Moakley's district, was started by a carelessly discarded cigarette and killed five children under the age of 10 and their parents. (Preston, Mark D. "Moakley Seeks Legislation for Fire Safe' Cigarettes." Worcester Telegram & Gazette 17 Mar. 1999.)

⁷³ Moakley, John Joseph. US Congressman, Boston 9th District. Written testimony. Public hearing. PAO Committee. Boston, 6 Sept. 2000. The Cigarette Safety Act of 1979, which did not pass, would have given the Consumer Product Safety Commission (CPSC) the authority to regulate cigarettes as a fire hazard, as well as mandating that a fire safety standard be implemented.

⁷⁴ Gann, Richard, PhD. Chief, Fire Science Division, Building & Fire Research Laboratory, National Institute of Standards. Testimony. HR 3885 "Fire Safe Cigarette Act of 1994" Public Hearing. Committee on Energy and Commerce Subcommittee on Commerce, Consumer Protection, and Competitiveness. Washington, D.C., 20 Apr. 1994.

⁷⁵ Moakley, John Joseph. US Congressman, Boston 9th District. Written testimony. Public hearing. PAO Committee. Boston, 6 Sept. 2000. 1987 report from the Technical Study Group to Congress; this 3-year study was funded by Federal Cigarette Safety Act of 1984, signed by President Reagan.

⁷⁶ Technical Advisory Group. Report to Congress 1993; study funded by Fire Safe Cigarette Act of 1990.

⁷⁷ H.R. 1130, 106th Leg. 1st Sess. Bill proposed by the Honorable John Joseph Moakley of Massachusetts.

INDUSTRY ARGUMENTS

In part, efforts to pass local and national legislation on cigarette safety standards have been impeded by several concerns raised primarily by the tobacco industry. The main concerns include the following:

- availability of acceptable testing methods to gauge the fire safety of cigarettes;
- creating a cigarette of reduced ignition propensity that is acceptable to the consumer; and
- avoiding an increase in health hazards from altering the cigarettes.

In testimony given at the hearing conducted by the Massachusetts Senate Post Audit and Oversight Committee and at other legislative hearings on creating cigarette fire safety standards, some tobacco lawyers, in-house scientists, and fire experts paid by the tobacco companies have argued that cigarette makers are still not able to produce a cigarette that is less likely to start fires, does not increase health risks, and does not taste bad to smokers.⁷⁸

In regard to available methods to test the fire safety of cigarettes, a representative of RJ Reynolds Tobacco Company insisted that "more real-world tests need to be agreed upon to make sure we are actually able to tell whether one cigarette is less likely to start a fire than another."⁷⁹

NATIONAL TESTING STANDARDS

To assist cigarette manufacturers in addressing their concerns, testing methods have been developed by federal agencies for cigarette ignition propensity and toxic potency measurement.⁸⁰

For instance, standards have been created to test the fire safety of cigarettes that counter the industry argument that better and more "real world" testing methods are needed. NIST has developed two testing methods for cigarette ignition propensity, and consider them to have "valid links to many real-world fire scenarios of concern."⁸¹ In

⁷⁸ Leslie Lewis. Master scientist, Research & Development, RJ Reynolds Tobacco Company. Public Hearing. Committee on Governmental Organization. Sacramento, CA 21 Aug. 2000.

⁷⁹ Ibid.

⁸⁰ Gann, Richard, PhD. Chief, Fire Science Division, Building and Fire Research Laboratory (BFRL), National Institute of Standards and Technology (NIST). "Test Methods For Cigarette Ignition Propensity." Presented at the 11th World Congress on Tobacco OR Health 10 Aug 2000. Two methods were developed under the Fire Safe Cigarette Act of 1990. One is the Mock-up Ignition Method, which measures whether a cigarette causes ignition by transferring enough heat to a representative substrate. The second is the Cigarette Extinction Method, which measures whether a cigarette generates enough heat to continue burning when placed on a heat-absorbing substrate.

⁸¹ Ibid.

fact, some tobacco companies employ the NIST-developed methods in their own studies, including Philip Morris USA.⁸²

Standards for testing the toxic potency of cigarette smoke have also been developed. The Fire Safe Cigarette Act of 1990 mandated that the Consumer Product Safety Commission (CPSC) develop information on changes in the toxicity of smoke and resultant health effects from cigarette prototypes.⁸³ As a result, CPSC developed a protocol to measure the toxicity in the smoke emitted by cigarettes.⁸⁴

The CPSC protocol was used by Philip Morris in testing a newer version of Merit cigarettes that are less incendiary.⁸⁵ According to Philip Morris officials, the Merit cigarettes did not show any significant increase in toxicity.⁸⁶ In addition, Philip Morris market research revealed that consumers found the newer Merit cigarettes acceptable in taste, and that consumers preferred these cigarettes over the conventional Merit brand in a 9:1 ratio.⁸⁷

⁸² Nyffleler, Urs. Vice President, Commercial Product and Process Development; Tyrone Murray, Director of Innovation & Applied Technology; and Joanne McCarthy, Regional Director, State Government Affairs. Philip Morris USA. Personal interview. 11 July 2000. In addition, Philip Morris is working internally and with the American Society of Testing and Materials (ASTM) and others to improve testing protocols. ("Philip Morris USA to Launch New Cigarette Paper Nationwide on All Merit Cigarettes." Press Release, 12 July 2000.) Also see <www.philipmorrisusa.com/company_news/company_news.asp?press_id=52> (visited 31 Oct 2000).

⁸³ Gann, Richard, PhD. Chief, Fire Science Division, BFRL, NIST Testimony. HR 3885 "Fire Safe Cigarette Act of 1994." Committee on Energy and Commerce, Subcommittee on Commerce, Consumer Protection and Competitiveness. Washington, D.C., 20 Apr. 1994.

⁸⁴ Gann, Richard. PhD. Chief, Fire Science Division, BFRL, NIST. Telephone conversation. 31 Oct. 2000. Also see <www.bfrl.nist.gov/info/summaries/1996/mfr-12.html>.

⁸⁵ Gann, Richard. PhD. Chief, Fire Science Division, BFRL, NIST. Telephone conversation. 31 Oct. 2000.

⁸⁶ "Philip Morris USA to Launch New Cigarette Paper Nationwide on All Merit Cigarettes." Press Release, 12 July 2000. Also see <www.philipmorrisusa.com/company_news/company_news.asp?press_id=52> (visited 31 Oct. 2000).

⁸⁷ Officials from Philip Morris USA. Personal interview. 11 July 2000.

TECHNICAL ISSUES AND PRODUCT HISTORY

TECHNOLOGICAL AND ECONOMIC FEASIBILITY

For the past 15 years, as a result of the Fire Safe Cigarette Acts of 1985 and 1990, there has been rigorous study of the feasibility of producing a cigarette that is less likely to start fires.⁸⁸ It is now clear from these studies that it is technically and economically feasible to produce a less incendiary cigarette. In fact, such cigarettes are commercially available today.

Based on a three-year study led by the National Institute of Standards and Technology (NIST), a 1987 federal report concluded that the manufacturing of cigarettes that are less likely to start fires is technically and economically feasible.⁸⁹ The making of less incendiary cigarettes entails employing design modifications such as packing tobacco more loosely, reducing the diameter of the cigarette, or removing chemicals that make the cigarette paper burn faster.⁹⁰ A second federal study released in 1993 produced widely accepted standards for testing the fire safety of cigarettes.⁹¹

Cigarettes that are considered less incendiary are already being sold in the United States. According to NIST, five brands of cigarettes already on the U.S. market employ the fire safety technology described above.⁹² These brands include: Capri Lights 100s, Eve Lights 120s, Virginia Slims Superslims 100s, More 120s and More White Lights 120s.⁹³ These brands have small circumferences, low-porous paper, and low tobacco density, which help to reduce the likelihood of starting fires in soft furnishings.⁹⁴ In July 2000, a newer version of Merit cigarettes was brought to market utilizing breakthrough technology in the cigarette paper that makes them less prone to start fires.⁹⁵

⁸⁸ Legislative activity can be traced first to the Fire Safe Cigarette Act of 1984, which mandated a study to research the feasibility of a fire safe cigarette and for more study in areas such as toxicity and economic impact. A patent for a self-extinguishing cigarette was filed on April 23, 1977 by Charles Cohn of Colonial Alloys Company in Philadelphia. This patent would have employed a cigarette wrapper containing a silicate solution to aid in the self-extinguishing of the cigarette. Mr. Cohn previously held a patent for cigarette fire resistance (IS Pat. No. 3,030,963 from Apr. 24, 1962). See <www.patscan.ubc.ca/Cig/cigres.htm> (visited 6 Sept. 2000).

⁸⁹ Ibid.

⁹⁰ Ruegg, Wever, Lippiatt, and Fuller. "Improving the Fire Safety of Cigarettes: An Economic Impact Analysis." National Bureau of Standards, US Department of Commerce. January 1988.

⁹¹ Study mandated by the Fire Safe Cigarette Act of 1990. Also see <www.burnfoundation.org/firesafecig.html> (visited 24 May 2000).

⁹² See <www.tobacco.org/New/94.03_tob_news.html> (visited 30 May 2000).

⁹³ Ibid.

⁹⁴ Ibid.

⁹⁵ Philip Morris USA to Launch New Cigarette Paper Nationwide on All Merit Cigarettes." Press Release, 12 July 2000. See <www.philipmorrisusa.com/company_news/company_news.asp?press_id=52> (visited 31 Oct. 2000).

INDUSTRY DEVELOPMENT OF A LESS INCENDIARY CIGARETTE

Tobacco companies have spent years researching the development of a cigarette that has a reduced propensity to start fires. For at least a decade, RJ Reynolds claims to have been trying to produce a cigarette with "reduced ignition propensity."⁹⁶ Dr. Jeffrey Wigand, who exposed the tobacco industry as having known that nicotine in cigarettes was addictive and a health hazard, also worked on a so-called "fire-safe" cigarette while employed with the Brown & Williamson Tobacco Company.⁹⁷

Riveting Revelations

Dr. Jeffrey Wigand is best known for his role as the highest-ranking tobacco company executive to have ever publicly disclosed industry knowledge of safety issues related to smoking. After more than four years as Vice President for Research and Development at Brown & Williamson Tobacco Company, Dr. Wigand assisted governmental agencies such as the Food & Drug Administration in investigating the role and effect of nicotine in tobacco products.⁹⁸ As a result of his public disclosures about the industry's efforts to minimize the health and safety issue of tobacco use, Dr. Wigand has been the subject of documentaries and death threats.⁹⁹ He received national prominence when he appeared on the popular news program, *60 Minutes*, to expose the tobacco industry, and his story has been made into the movie, "The Insider."

Dr. Wigand now works to reduce teen smoking through Smoke-Free Kids, a non-profit organization he founded that provides education and prevention methods to youth about smoking.

At the September 2000 public hearing held by the Senate Post Audit and Oversight Committee, Dr. Wigand testified that based on his review of tobacco industry documents, tobacco companies have known how to make a less incendiary cigarette since 1986.¹⁰⁰ At that time, there was no legislation or regulation requiring tobacco companies to produce a less incendiary cigarette. Due to the absence of legislation, Dr. Wigand said tobacco companies chose not to market a less incendiary cigarette.¹⁰¹

⁹⁶ Lewis, Leslie. Master Scientist, Research & Development, RJ Reynolds Tobacco, Inc. Testimony. Public Hearing. Senate PAO Committee. Boston, 6 Sept. 2000.

⁹⁷ See <<http://www.gate.net/~jcannon/documents/wigand.html>> (visited 7 July 2000).

⁹⁸ See <www.jeffreywigand.com/inside/bio.html> (visited 7 July 2000) and <www.gate.net/~jcannon/documents/wignad.html> (visited 7 July 2000).

⁹⁹ See <www.jeffreywigand.com/inside/> (visited 7 July 2000).

¹⁰⁰ Wigand, Jeffrey. Former Vice-President, Research & Development, Brown & Williamson Tobacco Company. Testimony. Public Hearing. PAO Committee. Boston, 6 Sept. 2000.

¹⁰¹ Ibid.

McGuire Fights Fire

Andrew McGuire, the executive director of the Trauma Foundation at San Francisco General Hospital has been an advocate for less incendiary cigarettes since the 1970s. At a September 2000 Senate Post Audit and Oversight Committee hearing, Mr. McGuire likened less incendiary cigarettes to a "vaccine that will prevent the most horrendous injury a human being could go through."¹⁰²

Mr. McGuire has served as a member of the technical study and advisory groups established by federal legislation to study the issue of cigarette fire safety standards.¹⁰³ Mr. McGuire launched an official campaign in the late 1970s calling on the U.S. Congress to mandate such cigarettes, and was one of the first to educate the public about the tobacco industry's ability to produce a less incendiary cigarette.¹⁰⁴

Mr. McGuire has testified before more than 13 state legislatures in support of fire safety standards for cigarettes.¹⁰⁵ He has stated that the tobacco companies have been researching how to make a cigarette less prone to start fires for more than 15 years.¹⁰⁶

In the early 1980s, Philip Morris, the leading manufacturer of cigarettes sold in the United States, started "Project Hamlet," the code name for an effort to create a less incendiary cigarette.¹⁰⁷ As a result of this research, Philip Morris researchers in 1987 sent unmarked packs of Hamlet cigarettes to 77 smokers who rated the prototype "equally acceptable to the smokers in the test and showed no significant differences" between the less incendiary cigarette and a Marlboro brand.¹⁰⁸

¹⁰² McGuire, Andrew. Executive Director, Trauma Foundation, San Francisco General Hospital. Testimony. Public Hearing. PAO Committee. Boston, 6 Sept. 2000. Mr. McGuire said, "A burn injury is the worst hell that one can go through on earth."

¹⁰³ The Technical Study and Advisory Groups were established by the Fire Safe Cigarette Acts of 1984 and 1990, respectively.

¹⁰⁴ McGuire, Andrew. "How the Tobacco Industry Continues to Keep the Home Fires Burning." Tobacco Control 8 (1999): 67-69

¹⁰⁵ McGuire, Andrew. Executive Director, Trauma Foundation, San Francisco General Hospital. Testimony. Public Hearing. PAO Committee. Boston, 6 Sept. 2000.

¹⁰⁶ McGuire, Andrew. "How the Tobacco Industry Continues to Keep the Home Fires Burning." Tobacco Control 8 (1999): 67-69.

¹⁰⁷ The name "Project Hamlet" referred to an inside joke among the researchers on the study. In a play on Shakespeare's famous line, "to be or not be," researchers asked among themselves, "to burn or not to burn."

¹⁰⁸ See < www.waltman.com/PhilipMorris/pmdocs.html > (visited 30 May 2000); Brenner, Marie. "The Man Who Knew Too Much." Vanity Fair May 1996. <www.studio.go.com/movies/insider/vanityfair.html> (visited 3 Nov. 2000).

An Idea That Has Merit

Philip Morris has broken ranks with the rest of the tobacco industry by marketing a less flammable version of one of its 350 cigarette brands.¹⁰⁹ In July 2000, Philip Morris released a new version of Merit cigarettes, which are more likely to self extinguish if left burning unattended.¹¹⁰ The patented technology, dubbed *PaperSelect*, involves ultra-thin rings of paper, applied on top of the traditional cigarette paper, that act as "speed bumps" to slow down the burn rate of the cigarette.¹¹¹ All Merit cigarettes on the national market are now made with *PaperSelect* cigarette paper.¹¹²

Philip Morris has conducted toxicological testing on cigarettes made with the *PaperSelect* paper and found no increased toxicity in the smoke. Philip Morris found that for smokers, cigarettes made with the special paper, when compared with cigarettes made with conventional cigarette paper, "taste the same and the health risks are no different."¹¹³

In addition, Philip Morris conducted a market survey of its Merit cigarette with the *PaperSelect* technology and found that nine out of 10 customers preferred the less incendiary *PaperSelect* version over the non-*PaperSelect* version.¹¹⁴

¹⁰⁹ Bustillo, Miguel. "Tobacco Companies Attack Fire Safety Bill." Los Angeles Times 21 Aug. 2000: A3, A13.

¹¹⁰ "Philip Morris Hopes to Meet or Exceed State Ignition Propensity Standards with New Cigarette Paper." Business Wire 17 Aug 2000.

¹¹¹ Ibid.

¹¹² "Philip Morris USA to Launch New Cigarette Paper Nationwide on All Merit Cigarettes." Press Release, 12 July 2000. See <www.philipmorrisusa.com/company_news/company_news.asp?press_id=52> (visited 31 Oct. 2000).

¹¹³ Carroll, Kathleen. "Taming the Neglected Cigarette." The New York Times 27 Aug. 2000.

¹¹⁴ Ibid.

REGULATORY ISSUES FOR MASSACHUSETTS

Because the federal government has been slow to act on fire safety standards for cigarettes, states have begun to step forward.

RESPONSIBILITY FOR REGULATION

During the public hearing there was strong testimony that a law ought to be drafted and that the Department of Public Health (DPH), in consultation with the Office of the State Fire Marshal, is best suited to implement and enforce a law establishing cigarette fire safety standards.

Agency officials and fire prevention experts suggested that the Massachusetts Tobacco Control Program (MTCP) at DPH is the agency best situated to establish fire safety standards for cigarettes. MTCP has the expertise and is the best-equipped agency to promulgate effective fire safety regulations for cigarettes sold in Massachusetts.¹¹⁵ Both DPH officials and State Fire Marshal Coan agreed that they could collaborate on developing these regulations.¹¹⁶

THE NEW YORK MODEL

On August 16, 2000, New York became the first state in the nation to enact legislation requiring the establishment of fire safety standards for cigarettes.¹¹⁷ The law establishes:

- that by the year 2003 all cigarettes that are sold in the state meet safety standards established by the Office of Fire Prevention and Control (OFPC);¹¹⁸
- stiff fines for violations, including fines of up to \$10,000 for each knowing sale of cigarettes that violates the law and a \$10,000 fine for each false certification of cigarettes;¹¹⁹ and
- a "Cigarette Fire Safety Act Fund" for the OFPC for fire safety and prevention programs.¹²⁰

¹¹⁵ Connolly, Greg. Director, Massachusetts Tobacco Control Program, Department of Public Health. Public Hearing. PAO Committee. Boston, 6 Sept. 2000; Stephen Coan. Massachusetts State Fire Marshal. Testimony. Public Hearing. PAO Committee. Boston, 6 Sept. 2000.

¹¹⁶ Ibid.

¹¹⁷ NY GEN. LAW Ch. 284 §156-c. Cigarette Fire Safety Act 2000. The bill requires that by 2003, all cigarettes sold in the state of New York (NY) must comply with safety standards that will be developed by the NY Office of Fire Prevention and Control.

¹¹⁸ NY GEN. LAW Ch. 284 §156-c.

¹¹⁹ Ibid.

¹²⁰ Ibid.

Yankee Ingenuity

New York Assemblyman Peter Grannis (D- 65th District) led an 18-year battle for the passage of the Cigarette Fire Safety Act of 2000, which made New York the first state in the nation to establish fire safety standards for cigarettes.¹²¹ According to Assemblyman Grannis, the battle involved "formidable opposition and aggressive lobbying efforts of the tobacco industry."¹²²

Opponents from the tobacco industry were working both visibly and behind the scenes in the State Senate.¹²³ Many New York state lawmakers received expensive dinners, tickets to baseball games, and gratuities in excess of state limits from tobacco lobbyists.¹²⁴

The long political fight over the New York legislation took a decisive turn after three firefighters died trying to rescue a Brooklyn woman from a fire started by a cigarette.¹²⁵ Assemblyman Grannis formed a strong coalition of 36 groups led by activists that included the firefighting community, public interest organizations and public health groups.¹²⁶ The Fire Association of New York State, a well-organized group of 180,000 volunteer firefighters, was instrumental to the passage of the law.¹²⁷

¹²¹ Grannis, Peter. Assemblymember, NY State Assembly D-65th District. Testimony. Public Hearing. PAO Committee. Boston, 6 Sept. 2000.

¹²² Ibid.

¹²³ Ibid.

¹²⁴ see <www.abcnews.go.com/wire/US/ap20000526_404.html> (visited 5 Jun. 2000).

¹²⁵ Sweeney, James P. "Fire-safe Smokes Face Critical Test Today in Assembly." Copley News Service. 21 Aug. 2000.

¹²⁶ Grannis, Peter. Assemblymember, NY State Assembly D-65th District. Written testimony. Public Hearing. PAO Committee. Boston, 6 Sept. 2000.

¹²⁷ Ibid.

FINDINGS AND RECOMMENDATIONS

FINDING:

Cigarettes are the leading cause of fatal fires in Massachusetts, and during the 1990s accounted for 178 deaths, 763 civilian injuries, 677 firefighter injuries, and more than \$75 million in property damage. Many of these smoking-related fires could be prevented through the introduction of fire safety standards for cigarettes.

RECOMMENDATION:

Following the lead of New York State, Massachusetts should establish fire safety standards for cigarettes that can help prevent needless loss of life and property.

- The Department of Public Health, in cooperation with the Office of the State Fire Marshal, should be statutorily required to develop fire safety standards for cigarettes.
- All cigarettes sold in Massachusetts should meet fire safety standards no later than 2003.
- The law should include stiff penalties for violation of the standards.

FINDING:

The federal government has clearly demonstrated that it is technically and economically feasible for cigarettes to meet fire safety standards. In addition, NIST and the Consumer Product Safety Commission have developed testing methodologies for cigarette fire safety and smoke toxicity that can be adopted by states.

RECOMMENDATION:

Massachusetts standards should include adoption of national testing methodologies for fire safety and smoke toxicity. Tobacco manufacturers should be required to provide certification that cigarettes designated for sale in Massachusetts have passed national tests for fire safety, and that these cigarettes are no more toxic than current brands.

FINDING:

While requiring that cigarettes meet fire safety standards is clearly a necessary step in reducing smoking related fires, a continued focus on education and prevention is also needed.

RECOMMENDATION:

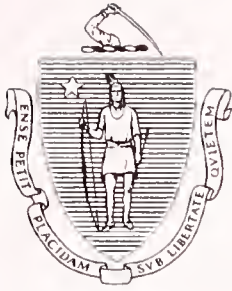
To enhance public education about fire safety, Massachusetts should allocate a portion of the funds generated from violations of fire safety standards towards on-going prevention and educational efforts such as the Student Awareness of Fire Education (S.A.F.E.) program, which sends firefighters into schools to educate children about fire prevention and safety.

APPENDICES

APPENDIX A:

**Proposed Legislation:
"An Act to Reduce the Loss of Life
Due to Fires Caused by Cigarettes"**

**To be filed by:
Senator Cheryl A. Jacques
(Norfolk, Bristol and Middlesex)
December 6, 2000**



COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS SENATE
STATE HOUSE, BOSTON 02133-1053

SENATOR CHERYL A. JACQUES
NORFOLK, BRISTOL
AND MIDDLESEX DISTRICT
ROOM 312-B
TEL. (617) 722-1555
FAX (617) 722-1054
E-MAIL cjacques@senate.state.ma.us

COMMITTEES:
SENATE POST AUDIT AND
OVERSIGHT (CHAIR)
STEERING AND POLICY (VICE CHAIR)
WAYS AND MEANS
PUBLIC SAFETY
JUDICIARY

AN ACT TO REDUCE THE LOSS OF LIFE DUE TO FIRES CAUSED BY CIGARETTES

SECTION 1. Chapter 64C of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by inserting after section 2 the following section:

Section 2A.

(1) (a) Within one year after this section takes effect, the commissioner of the department of public health, in consultation with the state fire marshal, shall promulgate fire safety standards for cigarettes sold or offered for sale in this commonwealth. Such standards shall take effect as provided for in subsection two and shall insure that

- i. such cigarettes, if ignited, will stop burning within a time period specified by the standards if the cigarettes are not smoked or drawn upon during that period; and
- ii. such cigarettes meet performance standards prescribed by the department of public health to limit the risk that such cigarettes will ignite upholstered furniture, mattresses or other household furnishings.

(b) In promulgating fire safety standards for cigarettes pursuant to this section, such standards issued by the commissioner of the department of public health shall not reasonably result in increased health risks to consumers.

(c) The commissioner of the department of public health shall be responsible for administering the provisions of this section.

(d) The commissioner of the department of public health shall report to the governor, the senate and the house of representatives no later than six months after this section takes effect on the status of his or her work in promulgating the fire safety standards required by this section.

(2) The fire safety standards required pursuant to subsection one of this section shall take effect one hundred and eighty days after such standards are promulgated. On or after the date that said fire safety standards take effect, no cigarettes shall be sold or offered for sale in this commonwealth unless the manufacturer thereof has certified in writing to the commissioner of the department of public health and the attorney general that such cigarettes meet the performance standards prescribed by the department of public health pursuant to subsection one of this section. Copies of such written certificates shall be provided by the certifying manufacturer to all wholesalers. The department of public health shall prescribe procedures by which retailers, vending machine operators, transportation companies and unclassified acquirers are notified of which cigarettes have been certified by manufacturers as meeting the performance standards prescribed by the department of public health. Nothing in this subsection shall be construed to prohibit any person or entity from selling cigarettes that have not been so certified if such cigarettes will be sold in another state or outside the United States.

(3) (a) Any wholesaler or any other person or entity who knowingly sells cigarettes wholesale in violation of this section shall be punished by a fine not to exceed ten thousand dollars per each ten thousand cigarettes sold or fraction thereof. Any retailer, vending machine operator, transportation company or unclassified acquirer who knowingly sells cigarettes in violation of this section shall be punished by i) a fine not to exceed five hundred dollars per each such sale or offer for sale of such cigarettes provided that the total number of cigarettes sold or offered for sale does not exceed one thousand cigarettes, or ii) a fine of one thousand dollars per each such sale or offer for sale of such cigarettes provided that the total number of cigarettes sold or offered for sale exceeds one thousand cigarettes.

(b) In addition to any penalty prescribed by law, any corporation, partnership, sole proprietor, limited partnership or association engaged in the manufacture of cigarettes that knowingly makes a false certification pursuant to subsection two of this section shall be subject to a civil penalty not to exceed one hundred thousand dollars for each such false certification.

(c) There is hereby established in the office of administration and finance a special fund to be known as the "Cigarette Fire Safety Act Fund." Such fund shall consist of all monies recovered by the attorney general from the assessment of civil penalties authorized by this subsection. Such monies shall be deposited to the fund and shall, in addition to any other money made available for such purpose, be available to the department of public health for the purpose of fire safety, education, and prevention programs, including but not limited to the so-called SAFE program.

(4) To enforce the provisions of this section, the attorney general may bring an action on behalf of the people of the commonwealth of Massachusetts to enjoin acts in violation of this section and to recover civil penalties authorized under subsection three of this section.

APPENDIX B

Records of Fatal Fires Caused by Cigarettes in Massachusetts 1997-1999

Fatal Fires in Massachusetts as a Result of Cigarettes 1997-1999¹

- ❖ On January 10, 1997 at 7:19 a.m. the Barre Fire Department was called to a cigarette-started fire in a single family home where a 51-year-old man had died.
- ❖ On January 21, 1997 at 4:41 a.m. the New Bedford Fire Department was called to a fire in an apartment building that was caused by smoking. A 79-year-old woman died.
- ❖ On January 22, 1997 at 4:45 a.m. the Brockton Fire Department was called to a fire in an apartment building caused by an elderly man smoking while using a home oxygen system. The 83-year-old man and another victim, a 32-year-old woman, died in the fire.
- ❖ On March 3, 1997 at 8:12 a.m. the Boston Fire Department was called to a fire in an apartment building caused by an 84-year-old woman smoking in bed. The elderly woman died in the fire.
- ❖ On March 22, 1997 at 5:14 a.m. the Springfield Fire Department was called to a fire in a residential garage where a 41-year-old homeless man had carelessly disposed of smoking materials while intoxicated. The man died in the fire.
- ❖ On April 17, 1997 at 1:44 a.m. the North Adams Fire Department was called to a fire in an apartment building where a 55-year-old woman and 67-year-old man died.
- ❖ On April 21, 1997 at 7:15 p.m. the Somerville Fire Department was called to a fire in an apartment building when a 67-year-old man fell asleep while smoking. The man died in the blaze.
- ❖ On April 26, 1997 the Boston Fire Department was called to a fire in an apartment building where an 84-year-old man died.
- ❖ On May 30, 1997 at 12:29 a.m. the Yarmouth Fire Department was called to a fire in a single family home where a 72-year-old man died from his careless disposal of smoking materials.
- ❖ On June 4, 1997 at 10:52 p.m. the Worcester Fire Department was called to a fire in an apartment building where a 39-year-old woman died.
- ❖ On September 5, 1997 at 3:43 a.m. the Westfield Fire Department was called to a fire in a two-family home where careless disposal of smoking materials killed a 20-year-old man.
- ❖ On October 10, 1997 at 11:18 a.m. the Stoneham Fire Department was called to a fire in an apartment building where a 76-year-old female died.
- ❖ On October 27, 1997 at 12:09 p.m. the Springfield Fire Department was called to a fire in a single family home where an 84-year-old man was intoxicated and carelessly disposed of his smoking materials. The elderly man died in the fire.
- ❖ On December 28, 1997 at 3:48 a.m. the Holbrook Fire Department was called to a cigarette-started fire in a two-family home. A 59-year-old woman died in this fire.

¹ Records from Massachusetts Fire Incident Reporting System 1997, 1998, and 1999.

1998

- ❖ On January 1, 1998 at 7:57 a.m. the Holyoke Fire Department was called to a fire in an apartment building caused by smoking. A 60-year-old man died in this fire. He had fallen asleep after improperly disposing of smoking materials. One firefighter was injured. Damages were estimated to be \$10,000.
- ❖ On January 5, 1998 at 1:05 a.m. the Boston Fire Department was called to a fire in an apartment building that was caused by smoking. A 50-year-old man died in the fire. Damages were estimated to be \$200,000.
- ❖ On January 16, 1998 at 7:07 a.m. the Springfield Fire Department was called to a fire in an apartment building caused by smoking. A 64-year-old woman died in this fire. Damages were estimated to be \$15,000.
- ❖ On January 28, 1998 at 1:11 a.m. the Canton Fire Department was called to a fire in a two-family home caused by smoking. A 69-year-old woman died in the blaze. Damages were estimated to be \$65,000. One firefighter was injured.
- ❖ On January 31, 1998 at 4:08 p.m. the New Bedford Fire Department was called to a fire in an apartment building that was caused by smoking. A 46-year-old man who was impaired by alcohol died in this fire. Damages were estimated to be \$10,000.
- ❖ On February 22, 1998 at 9:33 p.m. the Grafton Fire Department was called to a smoking fire in an apartment building. A 78-year-old man who was smoking while on oxygen died. Damages were estimated to be \$20,000, and a 74-year-old woman who was a resident of the building was injured.
- ❖ On March 6, 1998 at 9:58 p.m. the Milford Fire Department was called to a fire in an apartment caused by smoking. A 30-year-old man who was impaired by alcohol died in this fire. Damages were estimated to be \$50,000. One fire fighter was injured.
- ❖ On April 4, 1998 at 4:32 p.m. the Provincetown Fire Department was called to a fire in a residence that was caused by smoking. A 73-year-old woman died in this blaze when she fell asleep while smoking. Damages were estimated to be \$18,000.
- ❖ On April 27, 1998 at 1:01 p.m. the Hyannis Fire Department was called to a fire in a two-family home caused by smoking. A 69-year-old bedridden woman died in this fire caused by her smoking in bed. Damages were estimated to be \$25,000 and two civilians were injured.
- ❖ On May 14, 1998 at 2:47 a.m. the Beverly Fire Department was called to a fire in a single family home where a 46-year-old man died while freebasing. Damages were estimated to be \$200,000 and five firefighters were injured.
- ❖ On June 28, 1998 at 8:05 a.m. the Boston Fire Department was called to a fire in an apartment building caused by smoking. A 19-year-old man died in this fire. Damages were estimated to be \$200,000.
- ❖ On September 14, 1998 at 6:15 a.m. the Oakham Fire Department was called to a fire caused by smoking. A 47-year-old man living in a trailer who was impaired by medication and alcohol died in this fire. Damages were estimated to be \$6,000.

- ❖ On November 9, 1998 at 8:59 p.m. the Springfield Fire Department was called to a fire in a single-family home that was caused by smoking. Two women, ages 64 and 95, died in this fire and were asleep at the time of the fire. Damages were estimated to be \$10,000.

1999

- ❖ On January 5, 1999 at 12:47 p.m. the Cambridge Fire Department was called to a fire in an apartment building caused by smoking materials that were poorly extinguished and left on a nightstand covered with books and papers. This fire killed the 54-year-old male smoker while he was asleep. Damages to the property were estimated at \$15,000. No one else was injured in the fire.
- ❖ On February 19, 1999 at 4:48 a.m. the Winchester Fire Department was called to a fire in a single family home when a person fell asleep while smoking. The 59-year-old male smoker died of burns and smoke inhalation when the cigarette ignited his clothes while he was sleeping. Damages from this fire were estimated to be \$80,000. A Winchester firefighter was also injured in this blaze.
- ❖ On March 1, 1999 at 7:30 p.m. the Somerville Fire Department was called to a fire in a two-family home caused by the improper use and disposal of smoking materials. The 74-year-old victim had a physical handicap that prevented her from escaping and she died of burns and smoke inhalation. One firefighter was injured in this blaze. Damages from the fire were estimated to be \$70,000.
- ❖ On March 8, 1999 at 11:36 a.m. the Boston Fire Department was called to a fire in an apartment building caused by the improper use and disposal of smoking materials. The 77-year-old victim had a habit of wrapping his cigarette butts in paper to dispose of them. Two other residents of the building were injured in this fire. Damages were estimated to be \$75,000.
- ❖ On March 22, 1999 at 2:47 a.m. the Greenfield Fire Department was called to a fire in a single-family home caused by the improper use and disposal of smoking materials. The 60-year-old woman, who was asleep, died of burns and smoke inhalation.
- ❖ On March 18, 1999 at 12:46 a.m. the Marlborough Fire Department was called to a fatal fire in a single-family home caused by the improper use and disposal of smoking materials. Damages from this fire were estimated to be \$100,000. Four firefighters were injured in this blaze.
- ❖ On May 4, 1999 at 9:18 p.m. the Carver Fire Department was called to a fire in a single-family home caused by the improper use and disposal of smoking materials. Abandoned smoking materials in the dining room started the blaze while the 86-year-old victim was sleeping. She was overcome by burns and smoke and died.
- ❖ On August 17, 1999 at 1:33 a.m. the Everett Fire Department was called to a fatal fire in a two-family home caused by the improper use and disposal of smoking materials. The 43-year-old male victim appears to have been smoking in bed and fell asleep when the bedding ignited. One other person was injured in the fire.
- ❖ On November 5, 1999 at 4:22 a.m. the Attleboro Fire Department was called to a fatal fire at the LaSalette Monastery. A 44-year-old smoker had improperly

disposed of his smoking materials in a sleeping area and died of burns and smoke inhalation. Damages from this blaze were estimated to be \$10 million. No one else was injured in the fire.

- ❖ On November 28, 1999 at 4:43 a.m. the Worcester Fire Department was called to a fire in an apartment complex caused by the improper use and disposal of smoking materials. The 62-year-old female victim's clothing caught fire when an abandoned cigarette ignited upholstered furniture. The fire caused \$50,000 worth of damage and injured two other residents.

